

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 1/28/2009 was filed after the mailing date of the notice of allowance on 10/21/2008. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Brown et al US 20050271620 does not render the invention unpatentable. It is not available as prior art, its effective date as a reference under 102(e) being 2/12/2003, which is later than applicant's priority date of 10/7/2002. Applicant receives benefit of the priority date, because the relevant disclosure in the priority document is the same as in the application. Also, Brown does not provide any data showing ability to infect a cell using HSV with a gD fusion comprising a targeting ligand and reduced ability to bind to a normal cellular receptor for gD. For essentially the same reasons as discussed on 10/31/2008, Brown does not provide a reasonable expectation of success for the invention as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. Mosher whose telephone number is 571-272-0906. The examiner can normally be reached on varying dates and times; please leave a message.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1648

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary E Mosher/  
Primary Examiner, Art Unit 1648

2/3/09